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ARIZONA ATTORNEY GENERAL

July 19, 1954
Opinion No. 54-106

TO: Mr. Paul Paulson
State Industrial School
Fort Grant, Arizona

RE: Employee of State Industrial
School running for office of
justice of the peace.

QUESTIONS: (1) Does Section 47-409,
A.C.A. 1939, prevent an
employee of the school from
running for the office of
justice of the peace?

(2) If said section does
prevent the employee from
so running, would it be
permissible for him to
withdraw his nominating
petitions and still remain
an employee of the institu-
tion?

Subsection (b) of Section 47-409, A.C.A. 1939, provides as follows:

"47-409. Restrictions on members and employees.--

* * * * *

(b)P Any member or any employee who shall attempt to influence the political views of any other employee, or who shall take part in a political campaign, or contribute directly or indirectly any money or thing of value for election or campaign purposes, shall be promptly removed from his office or employment." (Emphasis supplied)

It is the opinion of the Department of Law, that the above quoted statutory provision would inferentially prohibit an employee of the State Industrial School from seeking election to the office of justice of the peace. The office of justice of the

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peace is an elective office (Section 20-101, A.C.A. 1939, as amended) and, under such circumstances, it would be impossible for such an employee to seek said office without taking part in a political campaign.

In addition, we believe that it would be impossible for such employee, if elected as justice of the peace, to retain his job with the School due to incompatibility of offices and duties (opinion of the Attorney General, No. 53-27).

In answer to your second question, we believe that Section 47-408, A.C.A. 1939, as amended, is controlling. This section provides:

"47-408. Teachers and employees.--The board shall appoint all assistants, teachers, medical officers, or other employees required in the conduct of any institution, upon the recommendation of the superintendent thereof. The superintendent may discharge any employee for cause, but shall promptly file with the board a written report of his reasons therefor, and the board, in its discretion, may order an investigation of such discharge or removal."

It is the opinion of the Department of Law, therefore, that it remains within the discretion of the Superintendent to determine whether or not the employee has, in fact, violated Section 47-409 (b), supra. It will be noted, however, that this subsection provides that any member who does violate said section "shall be promptly removed from his office or employment." If the employee has not actually entered into a campaign for the office there would appear to be no bar to his retaining his employment.

ROSS F. JONES
The Attorney General

JAMES P. BARTLETT
Special Assistant to the
Attorney General